

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2238

Introduced by Assembly Member Perea

February 24, 2012

An act to amend Section 56430 of the Government Code, to amend Section 116326 of the Health and Safety Code, and to amend Section 75125 of, and to add Section 75129.5 to, the Public Resources Code, relating to public water systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Perea. Public water systems: drinking water.

Existing law requires the State Department of Public Health to administer programs to fund improvements and expansion of small community water systems using specified priorities. Existing law requires the department to encourage the consolidation of small community water systems that serve disadvantaged communities if consolidation will help the affected agencies and the state meet specified goals. Existing law allows funding of studies regarding the feasibility of consolidating 2 or more community water systems, at least one of which is a small community water system that serves a disadvantaged community. Existing law requires the department to give funding priority to projects involving physical restructuring of 2 or more community water systems into a single, consolidated system when it is shown that the consolidation would further specified goals.

This bill would require the department to promote the consolidation ~~and merger~~ of small community water systems that serve disadvantaged communities, as specified, and would require the studies performed prior to a construction project to include the feasibility of consolidating ~~or merging community~~ public water systems, *unless the department makes a determination that consolidation is not feasible*. This bill ~~would prohibit the department from determining the consolidation or merger to be infeasible~~, if the local agency formation commission (LAFCO) ~~also~~ conducted a study or service review of the ~~project~~ *consolidation* within the previous 5 calendar years ~~and determined the project and found that consolidation was feasible, would require the department to consider the LAFCO's findings during the department's assessment of feasibility~~. This bill would also require the department to give priority to funding projects involving ~~managerial consolidation or merger~~ *consolidation of two or more community water systems* when the consolidation ~~or merger~~ would further specified goals.

Existing law requires LAFCOs to conduct a service review of the municipal services provided in the county, as specified, and to review all of the agencies that provide the service within a designated geographic area. Existing law permits LAFCOs to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified.

This bill would require LAFCOs to also assess various alternatives for improving efficiency and affordability of infrastructure and service delivery for drinking water and wastewater services. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative measure, provides funding for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. Existing law establishes the Strategic Growth Council and appropriates \$500,000 from the funding provided by the initiative to support the council and its activities. Existing law requires the council to manage and award grants and loans to support the planning and development of sustainable communities, as specified.

This bill would provide that LAFCOs intending to fund consolidation, merger, or extension of services projects for the purposes of promoting water conservation, and to support the planning and development of sustainable communities, are eligible for funding under the Safe

Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to encourage
2 local area formation commissions to focus on the consolidation,
3 merger, or extension of public water systems, especially those
4 located in disadvantaged communities, by seeking financial
5 assistance in order to perform the necessary service reviews and
6 other appropriate studies.

7 SEC. 2. Section 56430 of the Government Code is amended
8 to read:

9 56430. (a) In order to prepare and to update spheres of
10 influence in accordance with Section 56425, the commission shall
11 conduct a service review of the municipal services provided in the
12 county or other appropriate area designated by the commission.
13 The commission shall include in the area designated for service
14 review the county, the region, the subregion, or any other
15 geographic area as is appropriate for an analysis of the service or
16 services to be reviewed, and shall prepare a written statement of
17 its determinations with respect to each of the following:

18 (1) Growth and population projections for the affected area.

19 (2) The location and characteristics of any disadvantaged
20 unincorporated communities within or contiguous to the sphere
21 of influence.

22 (3) Present and planned capacity of public facilities, adequacy
23 of public services, and infrastructure needs or deficiencies including
24 needs or deficiencies related to sewers, municipal and industrial
25 water, and structural fire protection in any disadvantaged,

1 unincorporated communities within or contiguous to the sphere
2 of influence.

3 (4) Financial ability of agencies to provide services.

4 (5) Status of, and opportunities for, shared facilities.

5 (6) Accountability for community service needs, including
6 governmental structure and operational efficiencies.

7 (7) Any other matter related to effective or efficient service
8 delivery, as required by commission policy.

9 (b) In conducting a service review, the commission shall
10 comprehensively review all of the agencies that provide the
11 identified service or services within the designated geographic
12 area. The commission may assess various alternatives for
13 improving efficiency and affordability of infrastructure and service
14 delivery within and contiguous to the sphere of influence,
15 including, but not limited to, the consolidation of governmental
16 agencies. The commission shall comprehensively assess various
17 alternatives for improving efficiency and affordability of
18 infrastructure and service delivery for drinking water and
19 wastewater services.

20 (c) In conducting a service review, the commission may include
21 a review of whether the agencies under review, including any
22 public water system as defined in Section 116275, are in
23 compliance with the California Safe Drinking Water Act (Chapter
24 4 (commencing with Section 116270) of Part 12 of Division 104
25 of the Health and Safety Code). A public water system may satisfy
26 any request for information as to compliance with that act by
27 submission of the consumer confidence or water quality report
28 prepared by the public water system as provided by Section 116470
29 of the Health and Safety Code.

30 (d) The commission may request information, as part of a service
31 review under this section, from identified public or private entities
32 that provide wholesale or retail supply of drinking water, including
33 mutual water companies formed pursuant to Part 7 (commencing
34 with Section 14300) of Division 3 of Title 1 of the Corporations
35 Code, and private utilities, as defined in Section 1502 of the Public
36 Utilities Code.

37 (e) The commission shall conduct a service review before, or
38 in conjunction with, but no later than the time it is considering an
39 action to establish a sphere of influence in accordance with Section

1 56425 or 56426.5 or to update a sphere of influence pursuant to
2 Section 56425.

3 SEC. 3. Section 116326 of the Health and Safety Code is
4 amended to read:

5 116326. In administering programs to fund improvements and
6 expansions of small community water systems, the department
7 shall do all of the following:

8 (a) Give priority to funding projects in disadvantaged
9 communities.

10 (b) Promote the consolidation ~~or merger~~ of small community
11 water systems that serve disadvantaged communities in instances
12 where consolidation ~~or merger~~ will help at least one of the affected
13 agencies and the state to meet all of the following goals:

14 (1) Improvement in the quality of water delivered.

15 (2) Improvement in the reliability of water delivery.

16 (3) Reduction in the cost of drinking water for ratepayers.

17 (c) Pursuant to subdivision (b), require that ~~funding for~~
18 feasibility studies performed prior to a construction project include
19 studies of the feasibility of consolidating ~~two or more community~~
20 ~~public~~ water systems ~~or merging a community water system with~~
21 ~~a city water system~~, if at least one of the water systems is a small
22 community water system that serves a disadvantaged community,
23 unless the department makes a written determination that
24 consolidation ~~or merger~~ is not feasible ~~under the circumstances~~.
25 ~~The department shall not make a determination of infeasibility if.~~
26 *If*, within the previous five calendar years, the local agency
27 formation commission conducted a study, pursuant to Section
28 56378 of the Government Code, or conducted a service review,
29 pursuant to Section 56430 of the Government Code, which found
30 the consolidation ~~or merger~~ *feasible of the public water systems*
31 *feasible, the department shall consider those findings during its*
32 *assessment of feasibility.*

33 (d) If it is shown that small community water system
34 consolidation ~~or merger~~ will further the goals of subdivision (b),
35 give priority to funding construction projects that involve ~~the~~
36 ~~physical restructuring and managerial~~ consolidation of two or more
37 community water systems ~~or merger of one or more community~~
38 ~~water systems~~, at least one of which is a small community water
39 system that serves a disadvantaged community, into a single,
40 consolidated system.

1 SEC. 4. Section 75125 of the Public Resources Code is
2 amended to read:

3 75125. The council shall do all of the following:

4 (a) Identify and review activities and funding programs of
5 member state agencies that may be coordinated to improve air and
6 water quality, improve natural resource protection, increase the
7 availability of affordable housing, improve transportation, meet
8 the goals of the California Global Warming Solutions Act of 2006
9 (Division 25.5 (commencing with Section 38500) of the Health
10 and Safety Code), encourage sustainable land use planning, and
11 revitalize urban and community centers in a sustainable manner.
12 At a minimum, the council shall review and comment on the
13 five-year infrastructure plan developed pursuant to Article 2
14 (commencing with Section 13100) of Chapter 2 of Part 3 of
15 Division 3 of the Government Code and the State Environmental
16 Goals and Policy Report developed pursuant to Section 65041 of
17 the Government Code.

18 (b) Recommend policies and investment strategies and priorities
19 to the Governor, the Legislature, and to appropriate state agencies
20 to encourage the development of sustainable communities, such
21 as those communities that promote equity, strengthen the economy,
22 protect the environment, and promote public health and safety,
23 consistent with subdivisions (a) and (c) of Section 75065.

24 (c) Provide, fund, and distribute data and information to local
25 governments and regional agencies that will assist in developing
26 and planning sustainable communities.

27 (d) Manage and award grants and loans to support the planning
28 and development of sustainable communities, pursuant to Sections
29 75127, 75128, 75129, and 75129.5. To implement this subdivision,
30 the council may do all of the following:

31 (1) Develop guidelines for awarding financial assistance,
32 including criteria for eligibility and additional consideration.

33 (2) Develop criteria for determining the amount of financial
34 assistance to be awarded. The council shall award a revolving loan
35 to an applicant for a planning project, unless the council determines
36 that the applicant lacks the fiscal capacity to carry out the project
37 without a grant. The council may establish criteria that would allow
38 the applicant to illustrate an ongoing commitment of financial
39 resources to ensure the completion of the proposed plan or project.

1 (3) Provide for payments of interest on loans made pursuant to
2 this article. The rate of interest shall not exceed the rate earned by
3 the Pooled Money Investment Board.

4 (4) Provide for the time period for repaying a loan made
5 pursuant to this article.

6 (5) Provide for the recovery of funds from an applicant that fails
7 to complete the project for which financial assistance was awarded.
8 The council shall direct the Controller to recover funds by any
9 available means.

10 (6) Provide technical assistance for application preparation.

11 (7) Designate a state agency or department to administer
12 technical and financial assistance programs for the disbursing of
13 grants and loans to support the planning and development of
14 sustainable communities, pursuant to Sections 75127, 75128,
15 75129, and 75129.5.

16 (e) (1) No later than July 1, 2010, and every year thereafter,
17 provide a report to the Legislature that shall include, but is not
18 limited to, all of the following:

19 (A) A list of applicants for financial assistance.

20 (B) Identification of which applications were approved.

21 (C) The amounts awarded for each approved application.

22 (D) The remaining balance of available funds.

23 (E) A report on the proposed or ongoing management of each
24 funded project.

25 (F) Any additional minimum requirements and priorities for a
26 project or plan proposed in a grant or loan application developed
27 and adopted by the council pursuant to subdivision (c) of Section
28 75126.

29 (2) A report submitted pursuant to paragraph (1) shall be
30 submitted in accordance with Section 9795 of the Government
31 Code.

32 SEC. 5. Section 75129.5 is added to the Public Resources Code,
33 to read:

34 75129.5. To support the planning and development of
35 sustainable communities, the council shall manage and award
36 financial assistance to a city, county, local area formation
37 commission, special district, nonprofit organization, or entity
38 formed pursuant to Chapter 5 (commencing with Section 6500)
39 of Division 7 of Title 1 of the Government Code, or a local agency
40 formation commission formed pursuant to Chapter 4 (commencing

1 with Section 56425) of Division 7 of Title 1 of the Government
2 Code, if at least one of the parties to the joint powers agreement
3 qualifies as an eligible applicant, for the preparation, planning,
4 and implementation of a public water system consolidation, merger,
5 or extension of services project for the purposes of promoting
6 water conservation. The financial assistance provided pursuant to
7 this section shall be funded from moneys made available pursuant
8 to subdivision (c) of Section 75065. The council shall give priority
9 to funding projects proposed by ~~an economically~~ *a* disadvantaged
10 community.

11 SEC. 6. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.